SMITH & ASSOCIATES ATTORNEYS

July 31, 2012

Bill Harbison, Interim Director
Motor Vehicle Division
Texas Department of Motor Vehicles
200 East Riverside Drive, Building 150
Austin, TX 78768
Via E-Mail: DMV FormalOpinions@TxDMV.gov

Re: Comment in Support of Broker's Prohibition Opinion Request, per

43 T.A.C. § 215.4

Dear Mr. Harbison:

Please accept this comment submission in response to "Comment 1" to the formal opinion request relating to the Broker's Prohibition.

"Comment 1" mischaracterizes the services that the requester ("consultant") proposes to offer. The consultant proposes to provide a service that will protect and serve individuals who wish to purchase new automobiles, which is within the spirit and stated intent of the applicable laws to protect consumers and prevent fraud, unfair practices, discrimination, impositions and other abuses. The consultant will assist consumers and ensure that they are informed and fairly represented in the buying process, including exploring all their purchase options, thereby removing any level of naiveté regarding the process.

The consultant will act as an advocate on behalf of purchasers of automobiles, and will not take any form of compensation from the dealerships. The consultant is fully licensed as an independent dealer by the Department of Motor Vehicles with a General Distinguishing Number for the sale of used automobiles, and carries insurance and potential liability to the customers. There is nothing in the proposal that would escape or even limit accountability or liability. In addition, the consultant has a physical place of business and will be acting with the highest level of ethical responsibility.

As stated in the formal opinion request, the consultant will not take any fees, incentives, commission or other payments from the dealers; the consultant's

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compensation and allegiance will be with the clients who are looking to buy new automobiles, and who will pay the consultant with an hourly fee for the consultation services.

Moreover, the interpretation requested would not in any way impair the Department of Motor Vehicles from preventing any conduct of concern to the commentator. None of the implicated conduct outlined in "Comment 1" is requested by the submitted opinion, and such conduct would still remain within the enforcement power of the Department of Motor Vehicles.

Very truly yours,

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